

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket Nos. 13-77-0869 & 14-77-0392

Parcel No. 221/00208-304-003

G & K Services Co.,

Appellant,

vs.

Polk County Board of Review

Appellee.

Introduction

These appeals came on for hearing before the Property Assessment Appeal Board on June 16, 2016. Charlie Young of Ryan, LLC, Chicago, Illinois represented G & K Services. Polk County Assistant Attorney David Hibbard represented the Board of Review.

G & K Services is the owner of a commercially classified property located at 1325 Metro East Drive, Pleasant Hill, Iowa. The property is a light-industrial type building with 71,730 square feet including over 9,000 square feet of office space. The site is 6.389 acres.

The property's January 1, 2013, assessment was \$3,700,000, allocated as \$270,000 in land value and \$3,430,000 in improvement value. This value was established by the Board of Review in 2011 and remained the same since that time. The property's January 1, 2014, was also \$3,700,000. G & K Services' 2013 protest to the Board of Review claimed the property was inequitably assessed and was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). It reiterated these same claims on the 2014 protest, but added the claim that there had been a downward change in value since the last assessment under section 441.37(1)(a)(2).

The Board of Review denied both petitions. G & K appealed both decisions to this Board. It asserts the property's correct fair market value is \$2,510,550.

Findings of Fact

Charlie Young testified on G & K Services' behalf. Young stated his company created the analysis submitted with the 2013 PAAB appeal. The analysis included sales of eight properties located in the Des Moines metro area. The sales occurred between June 2010 and March 2013. Young asserted his office extensively researched these sales and found them to be most comparable to the subject. Based on these sales, Young asserts G & K Services' property is worth \$2,510,550. Young admitted the analysis contained no adjustments for differences between the subject property and the selected sales. Rather, the conclusion of value was determined using an average of the sales prices per square foot as applied to the subject property's size.

Rod Hervey, Chief Deputy Assessor, testified for the Board of Review. Hervey stated he prepared the Appraiser Analyses for the 2013 and 2014 Board of Review protests. Hervey first noted the property's current assessment was set by the Board of Review in 2011 as a result of G & K Services' protest that year.

Hervey's 2013 analysis examined five comparables. Hervey selected them based on the date of sale, size, and type of building and adjusted them to account for differences. His analysis concluded values in excess of the current assessment for both the cost and sales approaches to value. Hervey's analysis likewise noted the comparables in the G & K Services' analysis were either older or smaller than the subject property and mostly inferior to the subject property. For all of these reasons, he recommended the Board of Review deny the 2013 petition.

Finally, Hervey testified regarding the 2014 assessment. He stated it is the Board of Review's practice to deny any subsequent year protest when an appeal for the same property is still pending with PAAB or the district court.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure

Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at market value. § 441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred

percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

G & K Services provided a spreadsheet of eight sales in the Des Moines metro area. Using these sales, it arrived at an average sales price per square foot to apply to the subject property. These sales were not adjusted for any differences, and based on Hervey's testimony their comparability to the subject property is questionable. This information is insufficient to prove either inequity in the assessment or that the property was over assessed.

Moreover, to show the subject property suffered a change in value since the last assessment under section 441.37(1)(a)(2), "the protesting party shall show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the pervious assessment year." *Id.*; see also *Equitable Life Ins. Co.*, 252 N.W.2d at 450 (holding for a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation). Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. G & K Services did not submit sufficient evidence to show there was a change in value from 2013 to 2014.

Order

IT IS THEREFORE ORDERED the January 1, 2013 and 2014, assessments of the subject property as set by the Board of Review are affirmed.

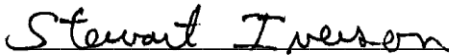
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial

review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 6th day of July, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Ryan, LLC

David Hibbard